

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sarah Bookbinder	Team: Team # 2	CCRB Case #: 200301132	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/15/2003 8:00 PM	Location of Incident: 2641 Marion Ave, Apt 1E	Precinct: 52	18 Mo. SOL 7/15/2004	EO SOL 7/15/2004	
Date/Time CV Reported Thu, 02/13/2003 10:05 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/13/2003 10:05 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Erick Acevedo	12656	901082	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Erick Acevedo	Abuse: PO Erick Acevedo stopped and questioned § 87(2)(b) and § 87(2)(b)	

Synopsis

On January 15, 2003, § 87(2)(b) and § 87(2)(b) were in the lobby of 2641 Marion Avenue, a building in the Bronx, on their way to visit § 87(2)(b) who lives in § 87(2)(b), and is a friend of § 87(2)(b)s. They were stopped by PO Erick Acevedo, who asked them for identification because they were in a clean halls building which he was patrolling. When § 87(2)(b) told him they were visiting his friend in § 87(2)(b), PO Acevedo asked § 87(2)(b) who lives in that apartment, if she knew either § 87(2)(b) or § 87(2)(b) and she said no. The officer then arrested § 87(2)(b) and § 87(2)(b) and charged them with trespassing and searched them. This case was filed by § 87(2)(b)s father, § 87(2)(b) although he did not witness the incident.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on March 17, 2003 (enc. 5A-C). She stated that this incident took place around 8:00PM on January 15, 2003. She stated that on that date, she was with a friend, § 87(2)(b). They had gone together to 2641 Marion Avenue, a residential building in the Bronx, to pick up a photograph from § 87(2)(b)s friend, § 87(2)(b) who lives in an apartment on the first floor of the building. § 87(2)(b) stated that when she and § 87(2)(b) entered the building, they took a right and § 87(2)(b) went up a small staircase, towards his friend's apartment. § 87(2)(b) waited near the stairs while § 87(2)(b) knocked on the door of § 87(2)(b) apartment, which was at the top of the stairs. As he did so, two officers walked by § 87(2)(b) and approached § 87(2)(b).

The officers asked § 87(2)(b) to step down the stairs and to show them some identification. After the officers examined his identification, they asked him why he was in the building, and he told them that he had just knocked on a friend's door, but no one had answered. The officers then knocked on the door themselves, and § 87(2)(b) mother came to the door. The officers asked her if a man named § 87(2)(b) lived there, and she said that he did, but that he was not home. She then closed the door.

The officers placed § 87(2)(b) into handcuffs and then turned to § 87(2)(b) told the officers that they were together but that § 87(2)(b) did not have anything to do with why he was in the building. PO Acevedo asked § 87(2)(b) for her ID, and she gave it to him. He then patted her down and went into her jacket pockets, removing and checking her wallet. He then handcuffed her.

The officers then took § 87(2)(b) and § 87(2)(b) outside of the building. One of the officers made a call over the radio requesting a van. A van arrived a few minutes later, and § 87(2)(b) and § 87(2)(b) were placed inside. § 87(2)(b) was taken to the precinct, where was held in the cell for about five hours. She was charged with trespassing. She identified her arresting officer as PO Acevedo.

§ 87(2)(b), § 87(2)(a) 160.50 . § 87(2)(b) pleaded guilty.

Results of Investigation

Civilian Witnesses

§ 87(2)(b) stated that in her initial interview that § 87(2)(b) did not want to participate in this investigation because he had been arrested before and did not want to become further involved with the police department. Because the facts of this case are not in dispute, as will be shown below, § 87(2)(b)s testimony was not necessary in order to determine the outcome of this case.

§ 87(2)(b) is the mother of § 87(2)(b) § 87(2)(b) whom § 87(2)(b) and § 87(2)(b) were on their way to visit on the date of the incident. Following that date, § 87(2)(b) returned to her apartment to obtain

a letter from § 87(2)(b) as evidence that she was in the building to visit § 87(2)(b). The letter can be found in Enclosure 6A.

This investigator contacted § 87(2)(b) on June 11, 2003. At that time, § 87(2)(b) stated that on the date of the incident, she saw the police speaking to § 87(2)(b) and § 87(2)(b) through the peep hole in her door, so she left her apartment to throw out the garbage. When she was in the hallway, one of the officers asked her if she knew either of them and she said that she did not. She explained to the investigator that she did not know either of their names or why they were there, and so she told the officers that she did not know them. She stated that neither the officer nor the civilians asked her any other questions. She later learned that they were there visiting her son, and she wrote the letter to attest to this fact.

Police Officer Interviews

PO Acevedo

PO Acevedo was interviewed at the CCRB on March 27, 2003 (enc. 8A-B). He stated that on the date of the incident he was working an impact post, as part of operation impact. He stated that his post spanned a few blocks, but he could not recall exactly which blocks those were. He stated that he was working with PO Santeen.

PO Acevedo stated that on the date of the incident, he conducted a vertical search of 2641 Marion Avenue with his partner, and when he returned to the lobby, he observed Ms § 87(2)(b) and § 87(2)(b). He stated that they were already inside the building when he first observed them, and that they were walking towards an apartment on the ground floor of the building. Before they reached the apartment door, PO Acevedo stopped them and told them to come over to him. He asked them what they were doing in the building, and neither of them could provide an answer. He informed them that it was a clean halls building. At that point, § 87(2)(b) told the officer that he was going to see one of his friends. He asked § 87(2)(b) which apartment they were going to, and he pointed to one of the doors. PO Acevedo asked him whether someone inside the apartment could verify who he was, and he said yes. He told them the name of his friend, and said that the friend owed him money. The officer could not recall the name § 87(2)(b) provided.

PO Acevedo then knocked on the door of the apartment and asked the woman who came to the door, who appeared to be in her 40s, if she knew § 87(2)(b) or § 87(2)(b). He stated that he pointed to them directly and asked her if she knew them. The woman answered that she did not. § 87(2)(b) then said that he knew her son and said his name. PO Acevedo asked the woman if she had a son by that name, and she said no. The woman then closed her apartment door.

PO Acevedo then informed § 87(2)(b) and § 87(2)(b) that he was going to place them under arrest for trespassing. He and his partner then handcuffed them. PO Acevedo searched § 87(2)(b) and patted § 87(2)(b) down.

Once at the precinct, § 87(2)(b) received a desk appearance ticket for trespassing, but § 87(2)(b) had outstanding warrants and pled guilty to the trespassing charge.

PO Acevedo stated that under the rules of a clean halls building, legitimate reasons for being in a building include if you live there, or if you are visiting someone there.

Police Documents

The roll call (enc. 9A-B) for January 15, 2003, lists all the officers who worked in PO Acevedo's tour on Operation Impact. However, it does not indicate which officers were working together, or where they were stationed. There are seventeen officers listed and none has a name close to the name that PO Acevedo provided for his partner (Santine or Santeen).

The desk appearance ticket (enc. 10A) that PO Acevedo gave to § 87(2)(b) states that she was scheduled to appear at Bronx Criminal Court on § 87(2)(b) at 9:30AM. It further states that her arrest was processed by PO Acevedo on January 15, 2003, at 11:00PM.

Conclusions and Recommendations

Undisputed Facts

The facts in this case are as follows: PO Acevedo and his partner stopped § 87(2)(b) and § 87(2)(b) in a building where they were not residents. Upon determining that they did not have a legitimate reason to be in the building, the officer arrested them for trespassing, and searched them in the process.

Officer Identification

PO Acevedo was identified from the arrest paperwork. He identified his partner as PO Santeen. However, there is no such officer in the New York City Police Department. The roll call does not identify specifically whom PO Acevedo was working with, it simply lists all the officers who assigned to Operation Impact during that specific tour, of which there are seventeen.

§ 87(2)(b), § 87(2)

§ 87(2)(b), § 87(2)(g)

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A) Abuse of Authority: PO Erick Acevedo stopped and questioned § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and PO Acevedo concur that PO Acevedo stopped her and § 87(2)(b) while they were inside of the apartment building, and that he asked them for identification and for an explanation of why they were in the building. 2641 Marion Avenue is a clean-halls building, which was why PO Acevedo was working an operation impact post there.

According to Barry Kamins' *New York Search and Seizure*, a 1992 amendment to NYC Penal Law allowed residents and managers of public housing projects the authority to "exclude unwanted members of the public...To utilize this authority, police officers conduct vertical patrols in when they patrol a building from top to bottom, questioning individuals they meet to determine the presence of trespassing or drug sellers" (p. 119).

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: